Beyond Court Decisions— Dockets, Documents, and Analytics

by Jan Bissett and Margi Heinen

In the early days of computerized legal research, Lexis and West-law provided searchable official court decisions, either full-text or via proprietary headnotes. It was a big leap to search prece-dential decisions text without relying on indexes and digests. As courts implemented websites and electronic filing, legal researchers began to retrieve decisions directly from those courts. Electronic availability of court dockets and pleadings gave way to searchable access—and legal researchers have not looked back, expecting more of this information in their everyday work lives.

The Legal Research Corner last examined how court documents are used in legal research in Linda Fields's 2004 article, "Using Docket and E-Filing Retrieval Systems for Legal Research."[1] In her article, Fields discussed various state and federal court e-filing systems that provide access to dockets and documents. Since 2004, many changes, including new products and vendors, as well as the ability to manipulate data with the use of analytics, have increased legal researchers' expectations. This article does not review or rec-ommend specific products but rather provides information on caveats, options, and trends in docket, document, and case analytics research.

There are many reasons for conducting such research. Attorneys creating a specific pleading for the first time may want to examine several examples from their jurisdiction. Researchers may want to see the "back story" documents for cases grabbing the headlines. Others may want to find analytics for the judge in their cases, such as how long a case lingers in his or her court, how likely the judge is to rule positively on summary judgment motions, and whether the judge tends to favor one point of view. And the traditional uses of docket monitoring for business and client development, as well as case monitoring and tracking, still hold sway.

How do researchers go about finding the dockets and docu-ments necessary for these legal research tasks? Some law libraries provide research guides on docket searching and usefulness (e.g., Yale,[2] Vanderbilt,[3] and Boston College[4] provide such guides for their students and legal researchers). Other law school libraries provide a short section on dockets within descriptions of jurisdic-tions (e.g., see Harvard's description of California materials[5]).

Many firm libraries provide access to specialty tools to accommo-date researchers' needs.

Caveats

As with most legal research projects, the devil is in the details, and some of these details should be anticipated before the research begins. Specifically, researchers may want to consider issues of juris-diction, vendors, and time frame. For example, federal electronic court pleadings are more widely available than those of state courts, and court autonomy within states can result in vast differences in availability between courts in different counties or districts. One of the factors that may influence state availability is vendor related; some courts contract with private vendors, while others have gov-ernmental technology units creating databases for court documents. Finally, researchers may have to resort to archive requests for older material. Electronic court documents initially became available in the mid-1990s or later, and documents filed with courts before that time are not usually electronically accessible.

Traditional Resources

Many of the products familiar to researchers—PACER, Bloomberg Law, Courtlink, Lexis, and Westlaw—provide docket and court document access and retrieval, along with some level of searching.

PACER

The federal court docket and document retrieval system was described in the Fields article and is still a heavily used platform for locating federal dockets and documents. It continues to be a rea-sonable price, although several lawsuits have been filed in federal courts disputing PACER charges and pricing, including a class action in a district court[6] and a lawsuit in the U.S. Court of Federal Claims.[7] Nonetheless, PACER is a one-stop location for federal appeals, district court, and bankruptcy court dockets and docu-ments. With the exception of sealed or restricted cases, PACER provides access to all current dockets and documents. While a doc-

About the Authors

Jan Bissett is the reference and faculty liaison services librarian with Wayne State University's Arthur Neef Law Library in Detroit, Michigan—janbissett @wayne.edu. Margi Heinen is the manager of research services for Sherman & Howard L.L.C. in Denver—mheinen@shermanhoward.com.

ument sometimes is not uploaded on the same day it is filed, that is rare on PACER. What PACER does not do is provide functionality for searching for dockets and documents on specific topics, experts, or motions.

To narrow the overwhelming field of federal court dockets using specific criteria, the researcher needs to pay for more expensive access. Westlaw, Lexis, and Bloomberg all provide some access to dockets and to selected documents within those dockets, along with additional search functionality. Unfortunately, none of these sources provides all documents within every docket from the federal courts. In addition, the dockets online are very often current only as of a date that appears at the top of the docket. Researchers will have to update the docket, sometimes for an additional fee, to make sure they have the full docket. An example from Bloomberg Law illustrates this point. (See Fig. 1.)

Bloomberg Law

Bloomberg Law provides docket searches that drill into the text of the dockets, which allows for locating particular types of pleadings, the names of experts, and other details. Bloomberg Law allows its subscribers to access pleadings that have been previously accessed by other researchers. For instance, the complaint in a specific docket may be available at no additional cost because someone has previously requested and paid for it. If a court document has not been accessed before, there may be an additional cost and a time delay to obtain it. Bloomberg Law has not gathered expert information into separate databases, but its litigation analytics for companies, law firms, and judges offers researchers some very helpful information (discussed in more detail below).

Lexis Courtlink

Courtlink provides access to docket searches for federal courts and a number of state jurisdictions. Although it can be used for document retrieval, Courtlink is most often used to conduct litigation searches on named parties because its historical coverage is greater than other services. For example, Colorado court registers of actions go back as far as 1975 for some Colorado district courts. Thus, researchers can get a substantial litigation history even if the specific documents are not available online. In addition, Courtlink allows attorneys to set up alerts and track cases so they can be alerted to new cases impacting clients or track a case that will impact an industry. One of the options available for purchase with Courtlink is the Lexis Strategic Profile. This early entry into analytical research provides graphs by litigant, law firm, judge, court, and nature of suit.

Westlaw and Lexis

Both of these traditional vendors have expanded their offerings to include dockets and documents. As with Bloomberg and Courtlink, the best coverage is in federal dockets, but state courts are included where available. The ability to search for particular types of pleadings is useful. Westlaw and Lexis have created separate databases that include the names of experts to make researching expert testimony easier, and often link to full-text documents.

State Court Quirks

The docket story is completely different in state jurisdictions, where many courts maintain an autonomy that may result in counties or districts developing their own e-filing or docket searching technology. Some courts purchase systems from vendors and some have simplified homegrown systems. In Michigan, for instance, there is no uniform access.[8] Many courts provide public access to dockets with paid access to full-text documents. Once researchers have identified the availability of dockets, they may need to drill down within the court's website to determine if full-text documents are available.

Colorado Courts E-Filing

In Colorado, attorneys and researchers are truly fortunate to have access to a statewide network of e-filing dockets and docu-

Figure 1.

FISHER v. USA, Docket No. 1:15-cv-01575 (Fed. Cl. Dec 28, 2015), Court Docket

Quick Print | Print/Download | Print/Download Entries | Email | + Workspace | Save for Later | Track Docket | Request Entries | Update Docket
Hide General Info & Notepad »

General Info | Notepad

US Court of Federal Claims
United States Court of Federal Claims (COFC)
CIVIL DOCKET FOR CASE #: 1:15-cv-01575-TCW

FISHER v. USA

Date Filed:	Dec 28, 2015
Nature of suit:	134 Contract - Other
Demand:	$50,000,000
Assigned to:	Judge Thomas C. Wheeler
Cause:	28:1491 Tucker Act
Jurisdiction:	U.S. Government Defendant
Jury demand:	None

Docket Currency

Last Updated on Bloomberg Law
Feb. 01, 2017 11:53 AM EST
Update Docket

What does this mean?

New Entries Since Last Update
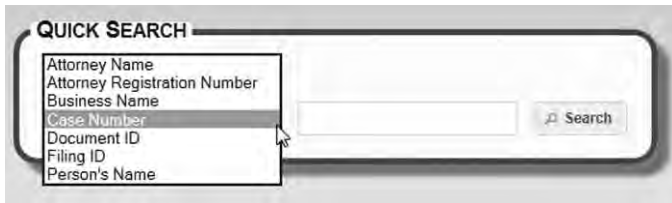
Notice of Appearance
Thursday, Mar 02, 2017 9:42:05 AM

Date Filed
Dec. 28, 2015

Parties and Attorneys   Hide Section   Expand All

General Information

▸ Plaintiff   **BRYNDON FISHER**
                     Individually and on behalf of all others similarly situated

Docket Number
1:15-cv-01575

ments. At Colorado Courts E-Filing,[9] attorneys can search nearly all Colorado courts in one spot (criminal cases may not be available from all districts), including Court of Appeals and Supreme Court dockets. Users can search by party name, case number, attorney name or registration number, and other criteria.

A document search option allows for drilling down by case number, court location, case type, document type, filer, and date.

Attorneys can access their own cases free of charge. The charge for other filings is $10, which allows access to all public documents within the docket for a period of several weeks. With tabs for the firm's cases, cases being monitored, and case access that has been purchased, document retrieval is easy.

Colorado attorneys who are used to the immediacy of online availability of Colorado court dockets and documents should not assume that all jurisdictions' systems function the same way. For example, some jurisdictions do not offer online docket search but require researchers to email requests for documents and wait for a staff person to email documents, which could take several days.

Analytics

Judicial analytics—which can be described as "big data meets court documents"—appears to be the next wave in legal research. Analytics can be used to research individual jurists, evaluate their records, identify and quantify rulings on a particular type of motion, and more.

Lexis and Westlaw have been providing analytics reports on judges and attorneys for at least the past five years. However, other vendors are introducing new products with appealing and attractive marketing. Bloomberg Law entered the fray last fall with its Litigation Analytics platform.[10] Ravel, a newer vendor offering a legal research and analytics platform, introduced its Court Analytics (including caselaw and decisions from both state and federal courts) at the end of 2016. Court Analytics, joining the Judge and

Case Analytics products, offers the possibility of predictive outcomes based on past rulings and similar cases of over 400 courts in "millions of court decisions spanning hundreds of years . . . ."[11]

These predictive tools promise statistics on rulings within jurisdictions to save litigators from compiling decisions or dockets themselves. Lexis acquired Lex Machina in 2015,[12] adding Securities and Antitrust analytics to its IP analytics coverage, integrating those products into LexisAdvance.[13] In early 2017, Lexis also announced the addition of Damages Explorer and Parties Comparator apps to Lex Machina, enabling researchers to easily identify damages in similar cases and compare similar parties' litigation strategies.[14]

The rise of predictive analytics tools and their use of dockets and pleadings in legal research is real. How can researchers monitor this trend going forward? One method is to follow the professionals who follow these developments. Jean O'Grady, a librarian, did some predicting herself in her "2017 Trends" article.[15] She and Robert Ambrogi of LawSites[16] are good sources to track what's to come in these types of legal research products. We're all keeping watch!

Conclusion

The increased electronic availability of court dockets and documents has changed the way in which this information is presented, used, and consumed by legal researchers. The pressure will grow on state courts that are not currently offering access to provide it like their neighboring states and the federal courts. Advances in search functionality have already made docket searching an expected step in legal research. Predictive analytics tools involving case, judicial, and court information, along with traditional case analysis, allow practitioners to expand their grasp of the law and the possible outcomes of their specific cases.

Notes

1. Fields, "Using Docket and E-Filing Retrieval Systems for Legal Research," 33 *The Colorado Lawyer* 61 (Nov. 2004).

2. Docket Research, Yale Law Library, http://library.law.yale.edu/docket-research.

3. Researching Dockets, Vanderbilt Law Library, http://researchguides.library.vanderbilt.edu/dockets.

4. Dockets and Court Filings Research, Boston College Law Library, http://lawguides.bc.edu/dockets.

5. Dockets and Court Documents—California Legal Research, Harvard Law Library, http://guides.library.harvard.edu/c.php?g=310533&p=2078323.

6. *Nat'l Veterans Legal Servs. v. United States*, No. 16-745 (ESH), 2017 WL 354084 (D.D.C. Jan. 24, 2017). For a summary of the case, *see* Ambrogi, "Class Action Lawsuit Challenges PACER Fees as Excessive," LawSites (Apr. 22, 2016), www.lawsitesblog.com/2016/04/class-action-lawsuit-challenges-pacer-fees-excessive.html; Ambrogi, "Lawsuit Challenging PACER Fees Certified as Class Action," LawSites (Jan. 25, 2017), www.lawsitesblog.com/2017/01/lawsuit-challenging-pacer-fees-certified-class-action.html.

7. *Fisher v. United States*, 128 Fed. Cl. 780 (2016).

8. *See* Trial Court Online Services Directory, Courts.Mi.Gov, http://courts.mi.gov/self-help/directories/pages/online-services-directory.aspx.

9. Colorado Courts E-Filing, www.jbits.courts.state.co.us/efiling/web/login.htm.

10. "New Bloomberg Law Litigation Analytics Solution Provides Insights into Judicial Behavior," Bloomberg BNA (Oct. 18, 2016), www.bna.com/new-bloomberg-law-pr57982078782. *See also* Li, "Data on

Judges' Tendencies Featured in New Predictive Analytics Tool from Bloomberg Law," *ABA Journal* (Oct. 19, 2016), www.abajournal.com/news/article/data_on_judges_tendencies_featured_in_new_predictive_analytics_tool_from_bl; Ambrogi, "Bloomberg Law's New Litigation Analytics Peeks Under the Robes of Judicial Data," Law Sites (Oct. 19, 2016), www.lawsitesblog.com/2016/10/bloomberg-laws-new-litigation-analytics-peeks-robes-judicial-data.html.

11. "Ravel Law Launches New Analytics for U.S. Court System," Market Wired (Dec. 5, 2016), www.marketwired.com/press-release/-2180699.htm. *See also* Our Products—Court Analytics, Ravel Law, ravellaw.com/products; Ambrogi, "Ravel Law Launches Court Analytics for Federal and State Courts," LawSites (Dec. 5, 2016), www.lawsitesblog.com/2016/12/ravel-law-launches-court-analytics-federal-state-courts.html.

12. "LexisNexis Acquires Premier Legal Analytics Provider Lex Machina," Lex Machina (Nov. 23, 2015), https://lexmachina.com/media/press/lexisnexis-acquires-lex-machina.

13. "LexisNexis Integrates Lex Machina Legal Analytics into Lexis Advance Online Legal Information Solution," PRWeb (Jan. 31, 2017), www.prweb.com/releases/2017/02/prweb14025192.htm.

14. "Lex Machina Releases Two New Breakthrough Apps for Its Award-Winning Legal Analytics Platform," Lex Machina (Jan. 26, 2017), https://lexmachina.com/media/press/two-new-apps-for-legal-analytics-platform.

15. O'Grady, "2017 Trends in Law Firms and Legal Publishing: Pure Speculation from the Serious to the Fantastic," Dewey B Strategic (Jan. 8, 2017), http://deweybstrategic.blogspot.com/2017/01/2017-trends-in-law-firms-and-legal.html.

16. Ambrogi, LawSites, www.lawsitesblog.com. ∎